

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

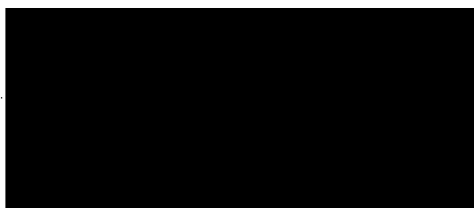
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71-1748

OGC Has Reviewed

6 May 1971

STATINTL



Dear Howard:

I have taken so long in answering your letter of April 5th because of the careful consideration given to your request by all concerned, particularly as we have not had this problem before.

I am sorry to tell you that our answer is in the negative, although we have taken every approach we can think of to comply with your wishes. Very simply, the problem is as follows:

The statute states--

At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife or her husband, commencing on the date following such participant's death . . . (emphasis added).

Our regulation on the subject repeats the language of the statute above and in addition states--

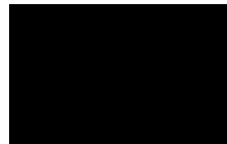
A participant may not change his election under this provision

We considered the possibility of a waiver of the regulation but ran into another problem here. The act specifically provides that the Director may prescribe rules and regulations but continues with the language that, "such rules and regulations are to become effective after approval by the chairman and ranking minority members of the Armed Services Committees of the House and Senate." The regulations as presently enacted were specifically reviewed by those Committees and approved in their present form.

Looking back into the legislative history of the act, we believe it is clear that the Committees desired our act to conform as closely as possible to Civil Service retirement, which definitely would not permit a change of election after retirement. There does not appear to have been any administrative error or misunderstanding at the time you retired and made your election; therefore, we have been unable to find any basis for making the change you request.

I think you know me well enough to agree that I like to stay as flexible in the law as I possibly can, but this seems to be one case where we are bound by specific provisions with no leeway to meet the requests of individual employees.

Sincerely,



Lawrence R. Houston
General Counsel

STATINTL

cc: Executive Director
DDS
Director of Personnel